



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

APR - 2 2008

OFFICE OF
WATER

MEMORANDUM

SUBJECT: FY 2008 Grants Involving Counter-Terrorism Coordination Activities by States and Territories

FROM: 
Cynthia C. Dougherty, Director
Office of Ground Water and Drinking Water (4601M)

TO: Water Management Division Directors
Regions I - X

PURPOSE

The purpose of this memorandum is to provide information on annual grants that the Environmental Protection Agency (EPA) will award for counter-terrorism coordination activities by the States and Territories under appropriations in the State and Tribal Assistance Grants (STAG) account. The information provided in this memorandum shall apply to the disbursement and administration of these grants. If there are any future changes to this grant program to the States and Territories then a revised memorandum will be issued.

BACKGROUND AND AUTHORIZATION

This grant program for States and Territories was established in Fiscal Year (FY) 2002, and was initially authorized by the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (Public Law 107-117), which was enacted on January 10, 2002.

STAG funding is being made available to EPA for award to States and Territories to support counter-terrorism coordination activities by the States and Territories in protecting the Nation's drinking water systems. Regional programs supporting Tribal water systems are requested to use funds in the existing Public Water System Supervision (PWSS) Tribal Reserve for assistance to Tribal water utilities. Regions have the authority to adjust priorities for use of their Tribal Reserve allotment to fund needed homeland security activities.

The authorization for this grant program is section 1442 of the Safe Drinking Water Act (SDWA), as amended. Consequently, these grants can be awarded only to the States' and Territories' drinking water programs, and the activities supported must be consistent with subsections (a) and (c) of section 1442. Eligible activities are described below.

These grants are exempt from the Policy for Competition of Assistance Agreements, EPA Order 5700.5A1. The Assistant Administrator for the Office of Administration and Resources Management approved this exemption on July 2, 2003 (see Attachment A).

PROJECT SPECIFIC GUIDELINES

Program Office Responsibilities

A directive in the Assistance Administration Manual 5700 outlines roles and responsibilities for all EPA staff with grants management responsibilities and is available at <http://intranet.epa.gov/rmpolicy/ads/updates.htm>.

The Regional Program Offices are responsible for obtaining grant applications from their respective States and Territories.

The Regions are also responsible for complying with all Office of Water and Agency award, monitoring, and closeout requirements. (See Attachment B for pertinent grant requirements.) Catalog of Federal Domestic Assistance (CFDA) #66.474 and program code WP must be used on all grant packages.

On November 14, 2003, EPA disseminated a memorandum entitled "Performance Standards for Grants Management (GPI 04-03)." This memorandum requires that performance standards established for project officers and their supervisors adequately address grants management responsibilities. On January 20, 2006, the Office of Grants and Debarment (OGD) issued Interim Guidance "Assessing Grants Management Performance under the Performance Appraisal and Recognition Systems (PARS)". On January 17, 2007, OGD issued further guidance, "Assessing Grants Management Performance under the 2007 Performance Appraisal and Recognition System (PARS)". On January 17, 2008, OGD issued another memorandum, "Guidance for Addressing Grants Management and the Management of Interagency Agreements under the Performance Appraisal and Recognition System (PARS)" (memorandum attachments are available at http://intranet.epa.gov/ohr/policy/pars/2008_pars.htm). OGD issued the guidance for consideration in assessing grants project officer and supervisor/manager compliance with key grants management policies under the 2007 PARS process, developing 2008 PARS performance agreements and conducting 2008 mid-year and end-of-year performance reviews (Attachments A and B to the January 17, 2008 memo). In

addition, OGD provided a two-page Manager's Guide to facilitate discussions with project officers while reviewing their grants management performance under PARS (Attachment C to the January 17, 2008 memorandum).

Delegation of Authority

Authority to award grants to the States and Territories is delegated to the Regional Administrators under 9-10 (revised April 11, 2001) of the Delegations Manual (1200 TN 526) with re-delegation to Division Directors (see Attachment C.).

Allocation of Funds

Appropriations in STAG funds shall remain available until expended. A modification of the basic PWSS formula was chosen in FY 2002 to allocate funding to each State and Territory and the use of this formula continues. Each State will receive a minimum of \$50,000 and each Territory at least \$16,700. Allotments of funds to States and Territories and the associated accounting information will be provided to Regional EPA Offices when the funds become available in the appropriate fiscal years.

Uses of Funds

The States and Territories are to use funds obtained under these grants for coordination activities for critical water infrastructure protection efforts that include work with water systems as well as with State, local and Federal agencies. (Regions 3 and 8 will administer funds designated for the District of Columbia and Wyoming respectively.) These activities include coordinating and providing technical assistance, training and education within the State or Territory on homeland security issues (particularly with homeland security offices and emergency response officials) relating to: (1) ensuring the quality of drinking water utility vulnerability assessments and associated security enhancements; (2) communicating vision, mission and goals of the sector specific plan and the key features of an active and effective security program; (3) helping to ensure security best practices for small systems; (4) promoting outreach and education at small systems; (5) promoting mutual aid compacts development; (6) supporting the development of system redundancy, a national laboratory system, (7) disaster mitigation plans; and (8) developing and overseeing emergency response and recovery plans, including those related to pandemic flu concerns. No match (cost share) for these grant funds is required.

Specifically, under these grants States/Territories need to describe activities and/or strategies that would assist in emergency response and recovery preparedness. Among the emergency response and recovery plan activities that could be funded are table-top workshops, exercises, drills, response protocols or other activities focusing on training to enhance security and improving the readiness of individuals, laboratories, and groups involved in first response at a drinking water system.

In FY 2007, Regions were directed to award new grants utilizing the Fiscal Year 2007 STAG grant funds, as opposed to continuing current grants utilizing both the STAG and Science and Technology (S&T) appropriations through supplemental

amendments. This requirement did not apply if Regions already had current grants in place utilizing only STAG grant funds, or if their current grant had fully expended all S&T funding. This action was necessary to prevent unexpended balances on grants utilizing both the STAG and S&T Appropriations from growing.

In FY 2008, Regions must continue to ensure that grant awards are funded only with STAG funds, and are not mixed with S&T funds. Regions have the flexibility to award one year or multi-year grants with the STAG funding. Grants which are funded only with STAG money may be amended for the current year and in subsequent years. This memorandum assumes that prior Fiscal Year funds have been obligated. If Regions have prior year STAG funds to obligate in addition to the FY 2008 STAG funds, those grant awards must only be funded with STAG funds.

Limitations on Use of Funds

These funds are to be used solely for the activities described in this memorandum and may not be incorporated into a Performance Partnership Grant (PPG).

Pre-Award

Recipients may incur pre-award costs [up to] 90 calendar days prior to award provided they include such costs in their application, the costs meet the definition of pre-award costs, and are approved by the project officer and award official. The award official can approve pre-award costs incurred prior to grant award in appropriate situations if the approval of the pre-award costs is consistent with the intent of the requirements for pre-award costs set forth in OMB Circular A-87 and are in conformance with Agency regulations, policies and guidelines.

National Incident Management System (NIMS) Requirement

Consistent with the Department of Homeland Security National Incident Management System (NIMS) initiative, recipients of Federal funding for emergency response projects must adopt the NIMS or they will not be eligible for funding. All 50 States and all Territories filed their NIMS self-certifying compliance letters in 2006 with the NIMS Integration Center, so this requirement has been met by all States and Territories for FY 2008 grants awards.

Grant Management: Other Requirements

OGD has developed Orders, Grants Policy Issuances (GPIs), and grant guidance documents to assist project officers and Program Offices to understand and meet the requirements (available at on the EPA intranet at <http://intranet.epa.gov/ogd/policy/policy.htm>). Several grant requirements are discussed in further detail below.

Environmental Results

EPA Order 5700.7, "Environmental Results Under EPA Assistance Agreements," applies to all funding packages/funding recommendations submitted to the Grants Management Offices after January 1, 2005. The Order requires EPA Program Offices to: (1) link proposed assistance agreements to the Agency's Strategic Plan/GPRA architecture; (2) ensure that outputs and, to the maximum extent practicable, outcomes are addressed in assistance agreement work plans and funding recommendations; and (3) ensure that progress in achieving agreed-upon outputs and outcomes is adequately addressed in recipient progress reports and advanced monitoring activities.

EPA's *2006-2011 Strategic Plan* (available at <http://www.epa.gov/ocfo/plan/plan.htm>) establishes five long-term goals for a five-year period. Each of these five goals is supported by a series of objectives and sub-objectives that identify, as precisely as possible, what environmental outcomes or results the EPA seeks to achieve within a defined time frame using resources expected to be available. The objectives and sub-objectives established in EPA's Strategic Plan are part of the 'GPRA architecture' that is used to measure the EPA's progress in meeting its strategic goals.

Program offices must include in the funding package for a proposed assistance agreement a description of how the project fits within the EPA's Strategic Plan/GPRA architecture. In developing the aforementioned descriptions, a project officer must list all applicable EPA strategic goals and objectives and, where available, sub-objectives in the Strategic Plan/Program Results Code (PRC) crosswalk in the funding recommendation. The project officer must ensure that the PRC(s) listed on the commitment notice is consistent with the selected strategic goals, objectives and sub-objectives. Grant awards under this program support Goal 2, "Clean and Safe Water," Objective 2.1, "Protect Human Health," and Sub-objective 2.1.1, "Water Safe to Drink," of EPA's 2006-2011 Strategic Plan. Specifically, grant awards will enhance public health protection by securing critical water infrastructure through support for counter-terrorism preparedness.

The term 'output' means an environmental activity, effort, and/or associated work products related to an environmental goal or objective that will be produced or provided over a period of time or by a specified date (see EPA Order 5700.7). Outputs may be quantitative or qualitative but must be measurable during an assistance agreement funding period. Outputs reflect the products and services provided by the recipient, but do not, by themselves, measure the programmatic or environmental results of an assistance agreement.

The term 'outcome' means the result, effect or consequence that will occur from carrying out an environmental program or activity that is related to an environmental or programmatic goal or objective. See EPA Order 5700.7. Outcomes may be environmental, behavioral, health-related or programmatic in nature, must be quantitative, and may not necessarily be achievable within an assistance agreement funding period. There are two major types of outcomes - end outcomes and intermediate outcomes. End outcomes are the desired end or ultimate results of a

project or program. They represent results that lead to environmental/public health improvement. Intermediate outcomes are outcomes that are expected to lead to end outcomes but are not themselves 'ends.' Given that the end outcomes of an assistance agreement may not occur until after the assistance agreement funding period, intermediate outcomes realized during the funding period are an important way to measure progress in achieving end outcomes.

Program offices must include in the funding recommendation for a proposed assistance agreement an assurance that the program office has reviewed the assistance agreement work plan and that the work plan includes well-defined outputs and, to the maximum extent practicable, well-defined outcomes. Example outputs and outcomes for this grant program include:

- Development of materials (i.e., number of documents, number of training manuals, etc.) focused on improving security and emergency response. (Output)
- Number of trainings, workshops, and/or conferences conducted to improve infrastructure protection, increase preparedness, and/or provide information to drinking water utilities. (Output)
- Changed management and operation of drinking water utilities based on training. (Outcome)
- Improved emergency response coordination and communications. (Outcome)

Award officials must use the following special conditions in all assistance agreements requiring performance reports to provide a comparison of actual accomplishments to agreed-upon outputs/outcomes:

Required special conditions for assistance agreements to State and local governments:

In accordance with 40 CFR 31.40, the recipient agrees to submit performance reports that include brief information on each of the following areas: 1) a comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement work plan for the period; 2) the reasons for slippage if established outputs/outcomes were not met by the agreed upon or scheduled date; and 3) additional pertinent information, including, when appropriate, analysis and information of cost overruns or high unit costs.

In accordance with 40 CFR 31.40(d), the recipient agrees to inform EPA as soon as problems, delays or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan.

Environmental Results - Advanced Monitoring (On-Site Reviews or Desk Reviews)

EPA Order 5700.7 directs program offices, when conducting on-site reviews or desk reviews under EPA Order 5700.6 A2 CHG 2 *Policy on Compliance, Review and Monitoring* to include an assessment of the recipient's progress in achieving the outputs and outcomes set forth in the assistance agreement work plan. If the assessment

reveals significant problems in meeting agreed-upon outputs/outcomes, the project officer must require the recipient to develop and implement an appropriate corrective action plan and implementation schedule. The results of the assessment must be documented in the Grantee Compliance Database.

Post-Award Management

The Office of Water may, during the course of grant performance, request information from the Regions regarding grant oversight, including a review of the recipient application and final grant work plan, availability of funds, and progress under the award.

EPA Order 5700.6 A2 CHG 2 *Policy on Compliance, Review and Monitoring* was issued September 24, 2007 and went into effect on January 1, 2008. The Order streamlines post-award management of assistance agreements and helps ensure effective oversight of recipient performance and management. The Order encompasses both the administrative and programmatic aspects of the Agency's financial assistance programs. It requires each EPA program office providing assistance to develop and carry out a post-award monitoring plan, and conduct baseline monitoring, or the equivalent, for every award. From the programmatic standpoint, baseline and advanced monitoring (on-site or desk reviews) should ensure satisfaction of five core areas: (1) compliance with all programmatic terms and conditions, (2) correlation of the recipient's work plan/application and actual progress under the award, (3) availability of funds to complete the project, (4) proper management of and accounting for equipment purchased under the award, and (5) compliance with all statutory and regulatory requirements of the program. If during monitoring, it is determined that there is reason to believe that the grantee has committed or commits fraud, waste and/or abuse, then the project officer must contact the Office of Inspector General. Project Officers must complete the baseline monitoring checklist in the Integrated Grants Management System (IGMS) Post-Award Database to document the baseline monitoring activity and any findings. Advanced monitoring activities must be documented in the official grant file and in the IGMS Grantee Compliance Database.

OGD issued interim guidance establishing uniform procedures for cost reviews of continuing environmental program grants/Performance Partnership Grants awarded under 40 C.F.R. Part 35 Subpart A on March 6, 2007. The procedures are effective March 30, 2007 and apply to this grant program. The interim guidance and the cost review template are available at <http://www.epa.gov/ogd/>.

ACTIONS

Upon receipt of fund allotments for State and Territory grants with the associated accounting information, your Regional Program Office is requested to initiate the process whereby the States and Territories may apply for these grants according to this memorandum. I urge you to work with the States and Territories to apply as soon as possible so that you may obligate most, if not all, funds by September 30, 2008.

* * * * *

We look forward to continuing to work with you and your staff to develop effective, efficient approaches to ensuring that drinking water systems are as safe as possible as soon as possible. If you have any questions on this particular portion of the program, please contact Nancy Muzzy of the OGWDW's Water Security Division at (513) 569-7864 and muzzy.nancy@epa.gov.

cc: Water Security Division Regional contacts
Regional Water Branch Chiefs
J. Taft, ASDWA
(Regions to inform State Drinking Water Administrators)
Tanya Mottley, Water Security Division

Attachments A - C

Attachment A (copy of signed document on file)

JUSTIFICATION FOR A NON-COMPETITIVE ASSISTANCE PROGRAM

Water Security Coordination Grants to the States

I. BACKGROUND

In the FY 02 supplemental appropriation for defense and homeland security activities, EPA received a total of \$88.8 million to enhance and strengthen the protection of the Nation's critical water infrastructure (drinking water and wastewater). Included in this total was \$5.0 million in the State and Tribal Assistance Grants appropriation account (STAG) to support counter-terrorism coordination activities by the states/tribes/territories in protecting drinking water systems.

A new grant program to the States/Tribes/Territories (Catalog of Federal Domestic Assistance #66.474) was established and funds were awarded in 2002 prior to the effective date of EPA Order 5700.5. This program, however, was not included in the list of EPA grant programs that are exempt from the competition policy now in effect.

II. EXCEPTION TO FULL AND OPEN COMPETITION

In accordance with the processes and procedures of EPA Order 5700.5, the Office of Water requests exemption from competition for assistance agreements awarded under the Water Security Grant Program. Two provisions of this order are applicable justifications, i.e., section 7.2 the interests of national security and section 8.4 the award is required by Federal statute to identified recipients pursuant to language in the FY 02 supplemental appropriations act.

For making grants for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering potential biological and chemical threats to populations, for 'State and tribal assistance grants', \$5,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107-38. (See Attachment 1)

III. FACTS BEARING ON THE CONCLUSION

1. Under Presidential Decision Directive 63, EPA has been assigned lead federal responsibility for the water sector in matters of critical water infrastructure protection.
2. The report accompanying the FY 02 supplemental appropriations act clearly identifies the purposes of the \$5.0 million appropriated in the STAG account, i.e., "for State grants for counter-terrorism coordinators to work with EPA and drinking water utilities in assessing drinking water safety." (See Attachment 2)
3. Competing these funds would be inconsistent with the intent of the Congress because the language is clear that the States/tribes/territories are to be the recipients of these funds and

competition could result in an uneven level of coordination nationwide. Accordingly, a formula, based on an existing formula grant to the States for drinking water programs, was developed in FY 02 ensuring that each State will receive a minimum of \$50,000 and each Territory at least \$16,700 of these funds. Funds for Indian tribes are available from a set aside that has been established to assist them in a variety of drinking water, including infrastructure protection, activities.

4. For national security purposes, these funds need to be awarded expeditiously to the states so that there is no interruption in their ongoing water security coordination endeavors.

5. This justification shall be effective for as long as the President's annual budget to the Congress includes a request for funds for this grant program and Congress appropriates such funds.

IV. CONCLUSION

Based on the foregoing, the Office of Water has concluded that it is appropriate to award the grant program to the states/tribes/territories for water security coordination on a non-competitive basis. This program justification is accurate and complete to the best of our knowledge.

APPROVALS

RECOMMENDED:

_____/S/_____
G. Tracy Mehan, III
Assistant Administrator for Water

Date: 6/20/03

CONCURRENCE:

_____/S/_____
Pat Patterson
Associate Director for Competition and Strategic Planning
Office of Grants and Debarment

Date: 6/25/03

APPROVAL:

_____/S/_____
Morris X. Winn
Assistant Administrator
Office of Administration and Resources Management

Date: 7/02/03

Attachments

Attachment B

(EPA Orders, Grants Policy Issuances (GPI), OW guidance)

1. EPA Office of Grants and Debarment (OGD) website at <http://intranet.epa.gov/ogd/>
2. EPA Orders – Grants: <http://intranet.epa.gov/ogd/policy/10-Order-Topics.htm>
 - Order 5700.6 A2 CHG 2 *Policy on Compliance, Review and Monitoring* issued September 24, 2007, went into effect on January 1, 2008 (replaces Order 5700.6A1, "Policy on Compliance, Review and Monitoring" (also replaces EPA Order 5700.3, "EPA Policy for Post-Award Management of Grants and Cooperative Agreements by Headquarters and Regional Offices"; and GPI-99-5, "EPA Policy for Post-Award Management of Grants and Cooperative Agreements by Headquarters and Regional Offices" as well as GPI-98-6, "Post Award Management of Assistance Agreements")
 - EPA Order 5730.1A1, "Policy and Procedures for Funding Assistance Agreements"
 - EPA Order 5700.7, "Environmental Results Under EPA Assistance Agreements"
3. Grants Policy Issuances: <http://intranet.epa.gov/ogd/policy/7.0-GPI-Topics.htm>
4. OW information on grants: <http://intranet.epa.gov/ow/grants> Click on "Grants" under the "Resource Management" menu at the top of the page
<http://intranet.epa.gov/ow/grants/bpmer.html>
5. Code of Federal Regulations: <http://www.gpoaccess.gov/cfr/index.html>
<http://www.access.gpo.gov/nara/cfr/cfr-retrieve.html>
 - 40 CFR 31 - Uniform administrative requirements for grants and cooperative agreements to state and local governments
6. Grant application forms:
<http://www.epa.gov/ogd/AppKit/application.htm>

Attachment C

DELEGATIONS MANUAL

1200 TN 526
04/11/2001

SAFE DRINKING WATER ACT

9-10. Assistance, Information, and Training of Personnel

1. **AUTHORITY.** Pursuant to Section 1442 of the Safe Drinking Water Act, as amended, authority to:
 - a. Conduct research, studies, and demonstrations relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments of man resulting directly or indirectly from contaminants in water, or to the provision of a dependably safe supply of drinking water, including improved methods of protecting underground sources of drinking water.
 - b. Perform the EPA functions and responsibilities relative to collecting and making available information; making available Agency facilities; and approving assistance agreements for training projects and for the development and expansion of programs of States and municipalities in accordance with Sections (a)(2) and (c).
 - c. Approve assistance agreements for the purpose of improving water quality to any individuals, public agency, educational institutions, publicly owned water systems, persons, and any other non-profit organization in accordance with Section (a), supplemented, as appropriate, for international awards by the National Environmental Policy Act, Section 102(2)(F).
 - d. Approve grants or cooperative agreements to any public agency, educational institution, and any other organization for training projects authorized by Section 1442(c)(3)(A), and 1442(c)(1) of the Safe Drinking Water Act, as amended.
2. **TO WHOM DELEGATED.**

Authorities (a) and (b) are delegated to the Assistant Administrator for Water and Regional Administrators.

Authority (c) is delegated to the Assistant Administrator for Water.

Authority (d) is delegated to the Assistant Administrator for Water, the Assistant Administrator for Research and Development, and Regional Administrators.

3. LIMITATIONS.

- a. The authority delegated does not include research within the purview of the Office of Research and Development.
- b. The authority delegated to the Regional Administrators under (b) does not include Section 1442(c)(2).
- c. The authority delegated to the Assistant Administrator for Research and Development is limited to multi-disciplinary training assistance initiated and funded by an office other than the primary holder of training grant authority.

4. REDELEGATION AUTHORITY. These authorities may be redelegated to the Division Director level, or equivalent, and may not be redelegated further.